
By: **Delegates Bobo, V. Clagett, and Glassman**
Introduced and read first time: February 6, 2004
Assigned to: Ways and Means

A BILL ENTITLED

1 AN ACT concerning

2 **Income Tax Credit for Preservation and Conservation Easements -**
3 **Transferability**

4 FOR the purpose of allowing an individual to transfer certain tax credits for
5 preservation and conservation easements to an individual or corporation under
6 certain circumstances; authorizing an individual or corporation to whom a
7 certain credit is transferred to claim a credit against the Maryland income tax
8 under certain circumstances; providing a subtraction modification under the
9 Maryland income tax for certain amounts received by an individual in
10 consideration of the transfer of certain tax credits; providing for the application
11 of this Act; and generally relating to the transfer of certain tax credits for
12 preservation and conservation easements.

13 BY adding to
14 Article - Tax - General
15 Section 10-207(h)
16 Annotated Code of Maryland
17 (1997 Replacement Volume and 2003 Supplement)

18 BY repealing and reenacting, with amendments,
19 Article - Tax - General
20 Section 10-723
21 Annotated Code of Maryland
22 (1997 Replacement Volume and 2003 Supplement)

23 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
24 MARYLAND, That the Laws of Maryland read as follows:

1 **Article - Tax - General**

2 10-207.

3 (H) THE SUBTRACTION UNDER SUBSECTION (A) OF THIS SECTION INCLUDES
4 ANY AMOUNT RECEIVED BY AN INDIVIDUAL IN CONSIDERATION OF THE TRANSFER
5 OF A CREDIT ALLOWED UNDER § 10-723 OF THIS TITLE.

6 10-723.

7 (a) (1) An individual may claim a credit against the State income tax as
8 provided in this section for an easement conveyed to the Maryland Environmental
9 Trust or the Maryland Agricultural Land Preservation Foundation for the purpose of
10 preserving open space, natural resources, agriculture, forest land, watersheds,
11 significant ecosystems, viewsheds, or historic properties, if:

12 (i) the easement is perpetual; and

13 (ii) the easement is accepted and approved by the Board of Public
14 Works.

15 (2) Subject to subsection (c)(2) of this section, the credit under this
16 section shall be allowed for the taxable year in which the donation is approved by the
17 Board of Public Works.

18 (b) (1) Except as otherwise provided in this section, the amount of the credit
19 allowed under this section is the amount by which the fair market value of the
20 property before the conveyance of the easement exceeds the fair market value of the
21 property after the conveyance of the easement.

22 (2) The fair market value of the property before and after the conveyance
23 of the easement shall be substantiated by an appraisal prepared by a certified real
24 estate appraiser, as defined under § 16-101 of the Business Occupations and
25 Professions Article.

26 (3) The amount of the credit shall be reduced by the amount of any
27 payment received for the easement.

28 (c) (1) For any taxable year, the credit allowed under this section may not
29 exceed the lesser of:

30 (i) the State income tax for that taxable year; or

31 (ii) \$5,000.

32 (2) If the credit otherwise allowable under subsection (b) of this section
33 exceeds the limit under paragraph (1) of this subsection, an individual may apply the
34 excess as a credit against the State income tax for succeeding taxable years until the
35 earlier of:

36 (i) the full amount of the excess is used; or

1 (ii) the expiration of the 15th taxable year after the taxable year in
2 which the donation was approved by the Board of Public Works.

3 (3) For each taxable year, the amount carried forward to the taxable year
4 under paragraph (2) of this subsection may not exceed the limit under paragraph (1)
5 of this subsection.

6 (d) (1) SUBJECT TO THE LIMITATIONS OF THIS SECTION, AN INDIVIDUAL
7 WHO CONVEYS AN EASEMENT UNDER THIS SECTION MAY TRANSFER THE ENTIRE
8 AMOUNT OF THE CREDIT ALLOWED UNDER SUBSECTION (B) OF THIS SECTION TO AN
9 INDIVIDUAL OR CORPORATION.

10 (2) A CREDIT MAY NOT BE TRANSFERRED UNDER THIS SUBSECTION
11 UNLESS THE INDIVIDUAL TRANSFERRING A CREDIT ALLOWABLE UNDER THIS
12 SECTION:

13 (I) HAS NOT CLAIMED THE CREDIT OR ANY PORTION OF THE
14 CREDIT;

15 (II) TRANSFERS THE ENTIRE AMOUNT OF THE CREDIT; AND

16 (III) NOTIFIES THE MARYLAND ENVIRONMENTAL TRUST OR THE
17 MARYLAND AGRICULTURAL LAND PRESERVATION FOUNDATION WITHIN 30 DAYS
18 AFTER THE EFFECTIVE DATE OF THE TRANSFER ON A FORM APPROVED BY THE
19 COMPTROLLER IN REGULATION.

20 (3) AN INDIVIDUAL OR CORPORATION TO WHOM ANY CREDIT IS
21 TRANSFERRED BY AN INDIVIDUAL UNDER THIS SECTION:

22 (I) MAY CLAIM A CREDIT AGAINST THE STATE INCOME TAX THAT
23 DOES NOT EXCEED THE AMOUNT OF THE CREDIT TRANSFERRED UNDER THIS
24 SUBSECTION, BY FILING WITH ITS TAX RETURN A COPY OF THE FORM EVIDENCING
25 THE TRANSFER OF THE TAX CREDIT; AND

26 (II) IS SUBJECT TO THE SAME REQUIREMENTS AND LIMITATIONS
27 IN CLAIMING THE CREDIT UNDER THIS SECTION THAT WOULD HAVE BEEN
28 APPLICABLE TO THE INDIVIDUAL TRANSFERRING THE CREDIT.

29 (E) The credit under this section may not be claimed for a required dedication
30 of open space for the purpose of fulfilling density requirements to obtain a subdivision
31 or building permit.

32 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
33 July 1, 2004, and shall be applicable to all taxable years beginning after December 31,
34 2003.